

REMARKS

This amendment is responsive to the Office Action dated June 2, 2008 and received in this application. In the amendment, claims 3, 19, 20 and 33 have been amended, and claims 34-39 have been added. Reconsideration of pending claims 1, 3, 4, 6-8, 10, 11, 13, 14, 16, 17, 19-21, 23, and 25-39 is respectfully requested.

These amendments add no new matter. Claims 3, 19, 20 and 33 were amended to correct for certain informalities noted in the Action and the preparation of this response, and claims 34-39 were added to recite subject matter clearly described in Applicant's specification as filed, including but not necessarily limited to FIGs. 10-11 and the related description thereof in Applicant's specification as filed.

Claim 1 was objected to for containing an informality, namely the use of the word "and" in two instances. Applicant respectfully submits that the usage of these terms was already correct, in that the first instance corresponds to text delineated by semi-colon and the second instance corresponds to text delineated by commas. Applicant thus respectfully requests reconsideration and withdrawal of these grounds of objection.

Claim 3 was rejected under 35 U.S.C. 112, 2, as failing to particularly point out and distinctly claim what Applicant regards as the invention. Applicant appreciates the Examiner's attention to the claims in this regard, and has amended the claim accordingly. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 3.

Claims 1, 3-4, 6-8, 10-11, 13-14, 16-17, 19-21, 23 and 25-33 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,266,649 to Linden et al. ("Linden") in view of U.S. Pat. No. 5,933,811 to Angles et al. ("Angles"), and further in view of U.S. Pub. No. 2004/0024652 to Buhse et al. ("Buhse"). This rejection is traversed.

Claim 1 recites: *[a] service managing apparatus for managing an information transmission service in which digital content is sent in real time between communication devices connected to each other over a network, the apparatus comprising:*

a communication controlling means for controlling the communication with each of the communication devices;

an information registering means for maintaining registration information on more than one piece of digital content available from those of the communication devices that are registered as an information provider; and

an information managing means for dynamically generating, based on the registration information, choices-window information from which selection is made of a desired one of the plurality of pieces of offered digital content by those of the communication devices that are to receive the desired piece of offered digital content,

the information managing means updating, when the registration information has been updated based on updating information reflecting the current status of the information provider, the choices-window information on the basis of the updated registration information, wherein the choices-window information includes information indicative of whether the communication device that is the information provider can currently provide the offered digital content in real time, and

wherein the communication controlling means controls the connection between the communication device that receives the desired piece of offered digital content and the communication device that is the information provider, with the desired piece of offered digital content being provided in real time when it is indicated as currently available in real time.

As noted previously, these claimed features accommodate the sending of digital content between communications devices that are **connected to each other**. The information registering means registers the digital content available from those of the communication devices that are registered as an information provider. The information managing means dynamically generates choices-window information for selection of a desired piece of offered digital content for the communication device that is to receive the desired piece of offered digital content. The communication controlling means controls the connection **between the communication device**

that receives the desired piece of offered digital content and the communication device that is the information provider. Additionally, the choices-window information includes information indicative of whether the communication device that is the information provider can currently provide the offered digital content in real time. When, this is the case, the communication controlling means control the connection so that the digital content can be provided in real time between the respective communication devices. None of the references offer any disclosure resembling the establishment of a connection between the respective communication devices so that the digital content can be provided from one to the other.

Linden discloses a system that allows for collaborative recommendations wherein computer users may rate various items that are available through the web site/server. The computer users do not register "digital content" that is to be provided by their computer, nor do they select from among the offered digital content so that it can be sent from one of the computers to another of the computers that may be connected through the network. Even presuming that the computers of Linden may be configured to communicate with each other, there is no mention of any kind of sending registered digital content from one computer to another, particularly with corresponding indications of what digital content items are currently available in real time, or of controlling the connection between the communication devices.

At best, one "communication device" in Linden may post a recommendation about some content (and presumably, according to the Action, the recommendation itself is the digital content). However, in this instance, the information is merely posted to the server, and the server later conveys the information to another user browsing available content. There is never an establishment of a connection between the communication devices, let alone in response to selection of content, or further in response to selection based upon indicated availability of the digital content from the communication device that is information provider in real time.

Still further, Linden does not disclose or suggest "*wherein the choices-window information includes information indicative of whether the communication device that is the information provider can currently provide the offered digital content in real time,*" or "*wherein the*

communication controlling means controls the connection between the communication device that receives the desired piece of offered digital content and the communication device that is the information provider, with the desired piece of offered digital content being provided in real time when it is indicated as currently available in real time,” as claimed by Applicant. Linden discloses generating recommendations that are specific to a shopping cart. (See 6:52-67 of Linden). First, these features do not disclose registering a device as an information provider of digital content, or providing an indication that the corresponding digital content is available in real time, or of providing the desired piece of offered digital content in real time, from the registered communication device that is the information provider to the registered communication device that is to receive the digital content.

Angles does not remedy the deficiencies of Linden. Angles discloses a system for delivering customized advertisements within interactive communication systems. When a user of a “consumer computer” accesses an offering from a content provider computer, a corresponding advertisement provider computer generates a custom advertisement based upon the user’s profile, and combines that custom advertisement with the offering being provided by the content provider computer for display by the consumer computer.

Although some content is delivered from the advertisement provider computer to the consumer computer (*i.e.*, the customized ads, presumably within web pages or the like that are accessed through the content provider computer), as with the Linden reference there is clearly no registration as an information provider, nor is there the feature of having choices-window information *from which selection is made of a desired one of the plurality of pieces of offered digital content by those of the communication devices that are to receive the desired piece of offered digital content.”* Even under the strained interpretation of this reference that appears to have been maintained by the Examiner in the Action, there is no reasonable instance of selection of the desired content through the communication devices.

In addition to the above-noted inadequacies, the Action notes that the combination of Linden together with Angles still does not disclose maintaining registration information on more

than one piece of digital content from registered communication devices, offered digital content in real time, and offered content being provided in real time when it is indicated as being offered in real time.

Buhse remedies neither the deficiencies noted in the Action nor the additional deficiencies noted above regarding Linden and Angles. Buhse discloses a digital distribution platform that provides a common messaging system to allegedly allow more flexible, along with digital rights management enforcement. Buhse clearly describes a system wherein a variety of devices communicate with the system to review and acquire content. There is no mention of the establishment of connections between separate communication devices of information providers and information recipients wherein the content is then provided from the former communication device to the latter communication device. The available "digital products" are merely those available through the system.

Thus, since Linden, Angles, and Buhse, whether taken alone or in combination, fail to yield the claimed features recited in Applicant's claim 1, Applicant submits that a prima facie case of obviousness is not present for that claim. For reasons similar to those provided regarding claim 1, independent claims 8, 14 and 21 are also neither disclosed nor suggested by the relied-upon references.

The dependent claims are also distinct from the references, for their incorporation of the features recited in the independent claims, as well as for their separately recited, patentably distinct features.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. 103(a) as being unpatentable over the combination of Linden, Angles, and Buhse.

In view of the foregoing arguments, all claims are believed to be in condition for allowance. If any further issues remain, the Examiner is invited to telephone the undersigned to resolve them.

This response is believed to be a complete response to the Office Action. However, Applicant reserves the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicant expressly does not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

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Respectfully submitted,

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